

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

DEC 07 2015

OFFICE OF  
MANAGING DIRECTOR

Ann C. Walden, President  
Sheepdog Broadcasting Corporation  
1929 Forest Heights Circle  
Lenoir City, TN 37772

Applicant(s)/Licensee(s): **Sheepdog  
Broadcasting Corporation**  
Waiver Request (Financial Hardship  
47 CFR 1.1166(c))  
Disposition: **Dismissed and Denied**  
Stations: WATO AM 1290.  
FRN: 0018478651  
Fiscal Year (FY) 2012 Regulatory Fee  
Filed: Sep. 10, 2012  
Fee Control No.: RROG-12-00014683

Dear Ms. Walden:

This responds to Licensee's *Request*<sup>1</sup> to defer payment of and waive the required Fiscal Year (FY) 2012 regulatory fees due<sup>2</sup> for call sign WATO AM on grounds of financial hardship. As we discuss below, because Licensee is delinquent in paying the FY 2010 and FY 2011 annual regulatory fees, we dismiss. In addition, we note, Licensee fails to meet the Commission's standards for deferral and waiver, hence we deny. Furthermore, we note, Licensee fails to include evidence that it complied with Tennessee state law for voluntary dissolution of a corporation. Finally, Licensee remains responsible for paying all delinquent debts.

*Background*

On September 10, 2012, Licensee filed its *Request* for "waiver and deferment of the regulatory fees for WATO, AM 1290, aka Sheepdog Broadcasting Corporation ... due to financial hardship" based on the following circumstances: (a) the corporation is "no longer operating and has been dissolved," (b) "[t]here are no remaining assets in the former corporation and [the corporation] has no ability to pay the regulatory fee," (c) the "license was turned in to the FCC," (d) "WATO went off the air March 31, 2010 ... the license was turned back in to the FCC on April 3, 2012," and "WATO was not on the air on 10/1/10," and (e) the information on Licensee's *Summary*.<sup>3</sup>

<sup>1</sup> Letter from Ann C. Walden, 1929 Forest Heights Circle, Lenoir City, TN 37772 to Marlene H. Dortch, Secretary, FCC, Attn: Office of the Managing Director, Regulatory Fee Waiver/Reduction Request, 445 12<sup>th</sup> Street, S.W., Rm TW-B204, Washington, D.C. 20554 (Sep. 10, 2012) with Summary of Revenue and Expenses and Loss (*Summary*).

<sup>2</sup> FY 2012 Regulatory Fees Due No Later Than September 13, 2012, *Public Notice*, DA 12-1295 (Aug. 13, 2012).

<sup>3</sup> *Request*.

Our records show, on April 2, 2012, the Commission cancelled the license for call sign, DWATO. Further, our records show, on September 10, 2012, Licensee was delinquent<sup>4</sup> in paying the required FY 2010 and FY 2011 regulatory fees and accrued charges, which include interest, penalties, and charges of collection as set forth in 31 U.S.C. § 3717 and 47 C.F.R. § 1.1940. Specifically, Licensee did not pay the FY 2010<sup>5</sup> and 2011<sup>6</sup> regulatory fees when due, and it did not file proper timely requests to defer payment of those fees.

### *Standards*

Licensees are expected to know the Commission's rules and procedures<sup>7</sup> for paying the annual regulatory fees, filing a timely and complete petition to defer payment, and filing a request for waiver. Also, Licensees are expected to know the consequences of failing to pay an annual regulatory fee in a timely manner.

In establishing the regulatory fee program mandated by Congress,<sup>8</sup> the Commission set out the relevant schedules of the annual fees and the established the procedures for, among other matters, payment, waivers, reductions, and deferral, payment, refunds, error claims, and penalties.<sup>9</sup>

The Commission recognizes that in certain instances, payment of a regulatory fee may impose an undue financial hardship upon a licensee, and it may be waived, reduced, or deferred upon a showing of *good cause*<sup>10</sup> and a finding that the *public interest will be served thereby*.<sup>11</sup> The applicant has the burden of demonstrating relief is warranted,<sup>12</sup> i.e., that special circumstances warrant a deviation from the general rule to collect the

<sup>4</sup> 47 C.F.R. § 1.1901(i).

<sup>5</sup> Licensee was required to submit a proper complete petition to defer payment or to make full payment of the FY 2010 annual regulatory fees no later than August 31, 2010. See Fee Filer Mandatory For FY 2010 Regulatory Fees, *Public Notice*, DA 10-1468 (Aug. 9, 2010), 25 FCC Rcd 10708 (2010).

<sup>6</sup> Licensee was required to submit a proper complete petition to defer payment or to make full payment of the FY 2011 annual regulatory fees no later than September 16, 2011. FY 2011 Regulatory Fees Due No Later Than September 14, 2011, Eastern Time (ET), *Public Notice*, DA 11-1420 (Aug. 17, 2011), FY 2011 Regulatory Fee Deadline Is Extended To 11:59 PM, ET, September 16, 2011, *Public Notice*, DA 11-1559 (Sep. 15, 2011).

<sup>7</sup> 47 C.F.R. § 0.406; see *Life on the Way Communications, Inc., Forfeiture Order* 30 FCC Rcd 2603, 2607 (2015).

<sup>8</sup> See 47 C.F.R. § 1.1151.

<sup>9</sup> See 47 C.F.R. Part 1, Subpart G.

<sup>10</sup> 47 C.F.R. § 1.3.

<sup>11</sup> 47 U.S.C. § 159(d); 47 C.F.R. § 1.1166 ("The fees ... may be waived, reduced or deferred in specific instances, on a case-by-case basis, where good cause is shown and where waiver, reduction or deferral of the fees would promote the public interest."). See also Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, *Report and Order*, 9 FCC Rcd 5333, 5344 (1994), *recon. denied*, 10 FCC Rcd 12759 (1995) (1994 *Report and Order*); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

<sup>12</sup> *Tucson Radio, Inc. v. FCC*, 452 F.2d 1380, 1382 (D.C. Cir. 1971).



regulatory fee, and that the deviation will serve the public interest.<sup>13</sup> The Commission's rule at 47 C.F.R. § 1.1166 provides,

The fees ... may be waived, reduced or deferred in specific instances, on a case-by-case basis, where good cause is shown and where waiver, reduction or deferral of the fee would promote the public interest. ... (a) ... All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission.

An applicant must show extraordinary and compelling circumstances that outweigh the public interest in recouping the Commission's regulatory costs.<sup>14</sup> The required "sufficient showing of financial hardship"<sup>15</sup> is more than "[m]ere allegations or documentation of financial loss, standing alone. Rather, we will grant a waiver only when the impact of the regulatory fee will affect a regulatee's ability to serve the public. It [is] incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fee and to maintain its service to the public."<sup>16</sup> The relevant financial documents include the licensee's balance sheet and profit and loss statement (audited, if available), a cash flow projection for the next twelve months (with an explanation of how calculated), a list of the licensee's officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information. On this information, the Commission considers on a case-by-case basis whether the licensee met the standard to show the station lacks sufficient funds to pay the regulatory fee and maintain service to the public.<sup>17</sup>

As set forth in 47 C.F.R. § 1.65, "[e]ach applicant is responsible for the continuing accuracy and completeness of information furnished in a pending application ... whenever the information furnished in the pending application is no longer substantially accurate and complete in all significant respects, the applicant shall promptly as possible and in any event within 30 days ... amend the application ... so as to furnish such additional or corrected information ... ."

<sup>13</sup> *Northeast Cellular*, 897 F.2d at 1166.

<sup>14</sup> 1994 *Report and Order*, 9 FCC Rcd at 5344 ¶ 29; *Phoenix Broadcasting, Inc. Stations KSWD and KPFN Seward, Alaska, Memorandum Opinion and Order*, 18 FCC Rcd 26464, 26446, ¶¶ 5-6 (2003) ("Fee relief may be granted based on asserted financial hardship, but only upon a documented showing that payment of the fee will adversely impact the licensee's ability to serve the public. ... [I]n the absence of a documented showing of insufficient funds to pay the regulatory fees, [applicant] has not made a compelling showing that overrides the public interest in the Commission's recouping the costs of its regulatory activities.").

<sup>15</sup> Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, *Memorandum Opinion and Order*, 10 FCC Rcd 12759, 12761-62, ¶ 13 (1995) (FY 1994 MO&O).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*



"The term, application, includes in addition to petitions and applications elsewhere defined in the Commission's rules, any request, as for assistance, relief, declaratory ruling, or decision, by the Commission or on delegated authority."<sup>18</sup> As part of our established procedures, "[a]n application (including a petition for reconsideration or any application for review of a fee determination) ... will be examined to determine if the applicant has paid the appropriate application fee, appropriate regulatory fees, is delinquent in its debts owed the Commission, or is debarred from receiving Federal benefits (see, e.g., 31 CFR 285.13; 47 CFR part 1, subpart P)."<sup>19</sup> Furthermore, "[a]pplications by any entity found not to have paid the proper application or regulatory fee will be handled pursuant to the rules set forth in 47 CFR part 1, subpart G."<sup>20</sup> Additionally, "[a]ction will be withheld on applications, including on a petition for reconsideration or any application for review of a fee determination, or requests for authorization by any entity found to be delinquent in its debt to the Commission (see §1.1901(i))"<sup>21</sup> ... If a delinquency has not been paid or the debtor has not made other satisfactory arrangements within 30 days of the date of the notice provided pursuant to paragraph (b)(2) of this section, the application or request for authorization will be dismissed."<sup>22</sup> Consistent with 47 U.S.C. § 159(c)(2) and 47 C.F.R. §§ 1.1164, 1.1166, and 1.1910, when an applicant for relief is delinquent in paying the regulatory fee, the Commission will dismiss<sup>23</sup> the request for relief and impose the statutory penalty.<sup>24</sup>

#### *Discussion*

Before we turned to the merits of Licensee's *Request* to defer payment of and waive the annual regulatory fees due on Station WATO AM., we examined the application<sup>25</sup> to determine if the applicant "paid the ... appropriate regulatory fees [or] is delinquent in its debts owed the Commission."<sup>26</sup> If the applicant is "found not to have paid [a] proper ... regulatory fee [the application] will be handled pursuant to the rules

<sup>18</sup> 47 C.F.R. § 1.1901(d).

<sup>19</sup> 47 C.F.R. § 1.1910(a)(1).

<sup>20</sup> 47 C.F.R. § 1.1910(b)(1).

<sup>21</sup> 47 C.F.R. § 1.1910(b)(2).

<sup>22</sup> 47 C.F.R. § 1.1910(b)(3).

<sup>23</sup> 47 U.S.C. § 159(c)(2) ("The Commission may dismiss any application or other filing for failure to pay in a timely manner any fee or penalty under this section."); 47 C.F.R. §§ 1.1164(e) ("Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee or an installment payment."); 1.1166(c) ("Waiver requests that do not include the required fees or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship.").

<sup>24</sup> 47 U.S.C. § 159; 47 C.F.R. § 1.1166; *Waivers, Reductions and Deferments of Regulatory Fees, Regulatory Fees Fact Sheet* (Sep. 5, 2013) 2013 WL 4773993 (F.C.C.) ("The Commission will dismiss any petition for waiver of a regulatory fee that does not include a payment or the required petition for deferral and supporting documentation, and under 47 U.S.C. § 159(c) and 31 U.S.C. § 3717, the Commission is required to impose the 25% penalty and other relevant charges. A request for waiver, reduction or deferral must be received before the fee due date. \* \* \* The Commission will dismiss a waiver request filed by a delinquent debtor or a petition that does not have the required financial documentation.").

<sup>25</sup> 47 C.F.R. § 1.1901(d) (Application is defined to include any request for assistance or relief by the Commission or on delegated authority ...).

<sup>26</sup> 47 C.F.R. § 1.1910(b)(1).



set forth in 47 CFR part 1, subpart G,<sup>27</sup> which provides for the assessment of the statutory 25 percent penalty and dismissal of the application. Furthermore, under 47 C.F.R. §1.1910, “[a]ction will be withheld on applications, including on a petition for reconsideration or any application for review of a fee determination, or requests for authorization by any entity found to be delinquent in its debt to the Commission (see §1.1901(i))”<sup>28</sup> and ultimately “the application or request for authorization will be dismissed.”<sup>29</sup> Here, our examination determined that Licensee is delinquent in paying the fees for FY 2010 and FY 2011, thus the *Request* is dismissed, so it is unnecessary to address fully other grounds for dismissal, *i.e.*, Licensee’s failure to file a separate proper petition to defer payment of the FY 2012<sup>30</sup> regulatory fees.<sup>31</sup> Even so, as a courtesy, we discuss several other problems arising from Licensee’s *Request*. We begin with a review of our rules at 47 C.F.R. §§ 0.401, 1.7, and 1.1166 that establish the proper location and procedures for filing a waiver request and petitioning for deferral, and the consequence of dismissal for failing to comply with those rules.

Initially, the Commission determines whether the regulatee *filed* the application for relief by submitting it at the office designated to receive and process the particular matter.<sup>32</sup> If the submission is not filed, it is returned. Next, a request to waive a regulatory fee is reviewed to determine whether the regulatee complied with 47 C.F.R. § 1.1166(c),

<sup>27</sup> 47 C.F.R. § 1.1910(b)(1). The rules at subpart G include 47 C.F.R. §§ 1.1157(c)(1) (“[a]ny late filed regulatory fee payment will be subject to the penalties set forth in section 1.1164”), 1.1164(c) (“If a regulatory fee is not paid in a timely manner, the regulatee will be notified of its deficiency. This notice will automatically assess a 25 percent penalty, subject the delinquent payor’s pending applications to dismissal, and may require a delinquent payor to show cause why its existing instruments of authorization should not be subject to rescission.”) and 1.1164(e) (“Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee or an installment payment. The application may be resubmitted only if accompanied by the required regulatory fee and by any assessed penalty payment.”).

<sup>28</sup> 47 C.F.R. § 1.1910(b)(2).

<sup>29</sup> 47 C.F.R. § 1.1910(b)(3).

<sup>30</sup> FY 2012 Regulatory Fees Due No Later Than September 13, 2012, *Public Notice*, DA 12-1295 (Aug. 13, 2012).

<sup>31</sup> 47 U.S.C. § 159(d); 47 C.F.R. § 1.1166(c); Assessment and Collection of Regulatory Fees For Fiscal Year 2011, *Report and Order*, 26 FCC Rcd 10812, 10819, ¶ 17 (2011) (“A regulatee’s mere allegation of financial hardship thus does not automatically entitle it to a deferral of its obligation to pay regulatory fees; only a properly supported claim of financial hardship will entitle the regulatee to a deferral. Accordingly, if a request for deferral is not supported by documentation of financial hardship, it will be denied, and an associated petition for waiver or reduction will be dismissed. A regulatee cannot delay payment on the theory that its deferral request triggered an automatic six-month extension of its obligation to pay.”); Waivers, Reductions and Deferrals of Regulatory Fees, *Regulatory Fees Fact Sheet* (Sep. 5, 2013) 2013 WL 4773993 (F.C.C.) (“The Commission will dismiss any petition for waiver of a regulatory fee that does not include a payment or the required petition for deferral and supporting documentation, and under 47 U.S.C. § 159(c) and 31 U.S.C. § 3717, the Commission is required to impose the 25% penalty and other relevant charges. A request for waiver, reduction or deferral must be received before the fee due date. \* \* \* The Commission will dismiss a waiver request filed by a delinquent debtor or a petition that does not have the required financial documentation.”).

<sup>32</sup> 47 C.F.R. §§ 0.401 (“The Commission maintains several offices and receipt locations. Applications and other filings not submitted in accordance with the addresses or locations ... will be returned to the applicant without processing.”); 1.7 (“pleadings and other documents are considered to be filed with the Commission upon their receipt at the location designated by the Commission.”); *Champion Communication Services, Inc., Order on Reconsideration*, 15 FCC Rcd 23782, 23783-84 (WTB 2000).



which requires either full payment of the fee (which will be refunded, if the waiver is granted) or a separate "petition to defer payment due to financial hardship, supported by documentation of the financial hardship." Licensee's submission presents multiple problems, including failing to submit *separate* timely and proper petitions to defer payment for the FY 2010 and FY 2011 regulatory fees, and failing to submit a *separate* timely and proper petition to defer payment of the FY 2012 regulatory fee. Because Licensee was delinquent in paying the FY 2010 and FY 2011 regulatory fees, debts owed to the Commission, and because Licensee failed to file a timely and complete petition<sup>33</sup> to defer payment along with a petition for waiver, under 47 C.F.R. § 1.1166, we dismiss.<sup>34</sup> Continuing with our courtesy review, we turn next to our discussion of Licensee's failure to meet our standards, which provides separate grounds to deny the *Request*.

First, Licensee fails to provide specificity and to maintain accuracy in the *Request*. Licensee does not identify the particular annual regulatory fee it seeks to defer payment of and to waive, *i.e.*, FY 2010, FY 2011, FY 2012, or all three years. Moreover, Licensee fails to comply with 47 C.F.R. § 1.65 that require applicants to maintain "the continuing accuracy and completeness of information [and] whenever the information furnished ... is no longer substantially accurate and complete in all significant respects ... to amend the application." For example, Licensee failed to notify the Commission of Licensee's asserted changing circumstances during the years 2010 and 2011, including that Licensee "sold the [station] equipment in April 2010," executed "an LMA" in "March/April 2011," and "notified [the buyer] that [Licensee] would try to sell the license to someone else." Indeed, Media Bureau's grant of Licensee's request for Special Temporary Authority admonished, "silent status does not suspend the licensee's obligation to comply with all other relevant Commission rules."<sup>35</sup> Further, Licensee failed to provide the required notice set forth under Tennessee law at Title 48, section 48-24-107, that it was dissolving the corporation.

Next, Licensee's financial documentation is insufficient and incomplete; it does not demonstrate Licensee lacks financial resources to pay the annual regulatory fees and

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<sup>33</sup> Assessment and Collection of Regulatory Fees For Fiscal Year 2011, *Report and Order*, 26 FCC Rcd 10812, 10819, ¶ 17 (2011) ("A regulatee's mere allegation of financial hardship thus does not automatically entitle it to a deferral of its obligation to pay regulatory fees; only a properly supported claim of financial hardship will entitle the regulatee to a deferral. Accordingly, if a request for deferral is not supported by documentation of financial hardship, it will be denied, and an associated petition for waiver or reduction will be dismissed. A regulatee cannot delay payment on the theory that its deferral request triggered an automatic six-month extension of its obligation to pay.");

<sup>34</sup> See *Waivers, Reductions and Deferrals of Regulatory Fees, Regulatory Fees Fact Sheet* (Sep. 5, 2013) 2013 WL 4773993 (F.C.C.) ("The Commission will dismiss any petition for waiver of a regulatory fee that does not include a payment or the required petition for deferral and supporting documentation, and under 47 U.S.C. § 159(c) and 31 U.S.C. § 3717, the Commission is required to impose the 25% penalty and other relevant charges. A request for waiver, reduction or deferral must be received before the fee due date. \* \* \* The Commission will dismiss a waiver request filed by a delinquent debtor or a petition that does not have the required financial documentation.").

<sup>35</sup> Letter from H. Taft Snowden, Supervisory Attorney, Audio Division, Media Bureau, FCC, Washington, DC 20554 to Ann Walden, Sheepdog Broadcasting Corporation, 1929 Forest Heights Circle, Lenoir City, TN 37772 (Jul. 13, 2010).



that paying the fees will affect Licensee's ability to provide service.<sup>36</sup> The *Summary*, Licensee's only documentation, does not demonstrate that relief is warranted,<sup>37</sup> i.e., that special circumstances warrant a deviation from the general rule to collect the regulatory fee, and that the deviation will serve the public interest.<sup>38</sup> For example, the *Summary* reports ambiguously "data ... derived from IRS financial records through CY 2011 ... modified to make it more understandable for the FCC staff to review."<sup>39</sup> On the *Summary*, Licensee's reported expenses and deductions that are about eight times the amount of reported revenue; however, financial loss alone does not meet the Commission's standards, discussed above, that require a licensee to furnish the balance sheet and profit and loss statement (audited, if available), a cash flow projection for the next twelve months (with an explanation of how calculated), a list of the licensee's officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information. Licensee fails to explain either the ambiguity of the "derived" and "modified" data, which suggests it is incomplete and unverified, or the circumstances under which the station, which was "on the air for seven months" and "off the air March 31, 2010 [and] not on the air on 10/1/10,"<sup>40</sup> expended substantial funds for "Auto/Truck expense ... Commissions ... Contract Labor ... Legal and Professional ... Miscellaneous ... Office Expense ... Telephone ... Website."<sup>41</sup> Without explanation, these expenses, which were expended in the vaguely stated period "through CY 2012," and that total about four times revenue received, are inconsistent with the assertion that the station was off the air. Furthermore, Licensee's payment of these and other reported expenses appears to violate 31 U.S.C. § 3713, which requires an insolvent debtor first to pay amounts owed the government.<sup>42</sup> Licensee leaves us to speculate about much in the *Summary*, including the tax filer's status, e.g., an S Corporate filing, and filing information, e.g., the specific dates and period of the report or reports, corporate assets, and shareholders' equity. Adding to these problems is Licensee's failure to account for the assets and proceeds received when it "sold the [station] equipment in April 2010." Failing to provide a full accounting undermines Licensee's *Request*. For these reasons, Licensee has not established both elements of our standard, good cause<sup>43</sup> and how the public interest is served<sup>44</sup> by deferring payment and waiving the fees. On these additional grounds, we deny.

<sup>36</sup> FY 1994 MO&O, 10 FCC Rcd at 12761-62 ¶ 13.

<sup>37</sup> *Tucson Radio, Inc. v. FCC*, 452 F.2d 1380, 1382 (D.C. Cir. 1971).

<sup>38</sup> *Northeast Cellular*, 897 F.2d at 1166.

<sup>39</sup> *Request, Summary*.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> 31 U.S.C. § 3713. Priority of Government claims

(a)(1) A claim of the United States Government shall be paid first when—

(A) a person indebted to the Government is insolvent and—

(i) the debtor without enough property to pay all debts makes a voluntary assignment of property;

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(b) A representative of a person ... paying any part of a debt of the person or estate before paying a claim of the Government is liable to the extent of the payment for unpaid claims of the Government.

<sup>43</sup> 47 C.F.R. § 1.3.

<sup>44</sup> 47 U.S.C. §159(d); 47 C.F.R. § 1.1166; 1994 *Report and Order*, 9 FCC Rcd at 5344; *WAIT Radio v. FCC*, *supra*; *Northeast Cellular*, *supra*.



Finally, we note that Licensee asserts the station "went off the air March 31, 2010" and that "WATO was not on the air on 10/1/10,"<sup>45</sup> and that the corporation, Sheepdog Broadcasting Corporation, is dissolved. Licensee fails to include evidence to support either assertion. For example, Licensee did not include evidence, and we are unable to locate a record in our files, showing Licensee's compliance in 2010 with our rule requiring notice of discontinuance and surrender of the license as set forth at Part 74. Specifically, 47 C.F.R. § 74.1750 requires the "licensee of each station [to] notify by letter the FCC ... of the permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance ... the licensee shall forward the station license and other instruments of authorization to the FCC ..." Moreover, and important to the assertion that the corporation is dissolved, our search disclosed that the State of Tennessee reports Sheepdog Broadcasting Corporation is "inactive, dissolved (administrative)" as of August 9, 2012. Licensee fails to include evidence that it complied with Tennessee statutory law pertaining to dissolution, including, among other relevant statutory provisions, § 48-24-107, issue of notice of dissolution; presentation of claims against, § 48-24-109, payment of claims; distribution of assets; director liability, or § 48-24-105, winding up and liquidating; continuing corporate existence. Until we receive satisfactory evidence establishing Licensee's timely compliance with our rule to surrender the license and with the statutory procedures to accomplish voluntary dissolution both events before Licensee incurred the legal obligation to pay each of these debts, Licensee remains responsible for payment. This resolves the matter, so it is unnecessary to discuss other issues establishing a reason for denial.

Until the Commission receives the full amount owed, we are required to dismiss any application that Licensee has pending or that it will file. Additional statutory charges continue to accrue. Moreover, under 31 U.S.C. § 3716, 31 C.F.R. § 285.5, and 47 C.F.R. § 1.1912, some or all of the debt may be collected by non-centralized or centralized administrative offset. Also, under 31 U.S.C. § 3711(e), this debt and Licensee's payment history will be reported to credit reporting information bureaus. Further, this provides notification that under 31 U.S.C. § 3711(g), without further notice, and usually within 120 days or less of the original date of delinquency, we will transfer the delinquent debts to Treasury, which will initiate collection action through private collection activities and assess additional charges. In addition, we may refer the debts to the Department of Justice, which may result in litigation and additional costs. Because we have furnished notice here, Licensee may not receive another notification of this process. As mentioned earlier, Licensee will remain red lighted<sup>46</sup> until it pays the debt or makes other satisfactory arrangements.<sup>47</sup>

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<sup>45</sup> Request.

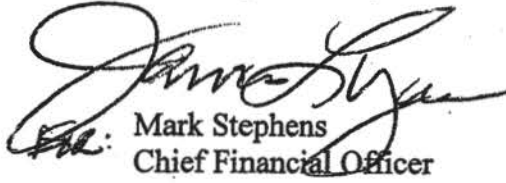
<sup>46</sup> See 47 C.F.R. § 1.1910(b)(2) ("Action will be withheld on applications, including on a petition for reconsideration or any application for review of a fee determination, or request for authorization by any entity found to be delinquent in its debt to the Commission ...."); 47 C.F.R. § 1.1164(e) ("Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee or an installment payment.").

<sup>47</sup> See 47 C.F.R. § 1.1914 ("If a debtor is financially unable to pay a debt in one lump sum, the Commission, in its sole discretion, may accept payment in regular installments.").



If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

  
For: Mark Stephens  
Chief Financial Officer